

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

**THE PEOPLE OF THE STATE OF
NEW YORK, TOWN OF LLOYD
COURT**

**1:09-CV-684
(GLS/DRH)**

Plaintiffs,

v.

**JEFFREY BURFEINDT, JEFFREY-
CHARLES,**

Defendants.

APPEARANCES:

OF COUNSEL:

FOR THE PLAINTIFFS:

NO APPEARANCE ON RECORD

FOR DEFENDANTS:

JEFFREY BURFEINDT
JEFFREY-CHARLES

Pro Se

General Post-Office
Clintondale, NY 12515

**Gary L. Sharpe
U.S. District Judge**

SUMMARY ORDER

The Clerk has sent to the court for review a notice of removal filed

pursuant to 28 U.S.C. §§ 1441 and 1446 by defendants Jeffrey Burfeindt and Jeffrey-Charles. (Dkt. No. 1.) Also before the court is defendants' motion to proceed *in forma pauperis*. (Dkt. No. 2.)

Defendants' motion to proceed *in forma pauperis* is granted.

However, a review of the notice of removal convinces the court that remand is required here. Under 28 U.S.C. § 1441, removal of a state court action to federal court is proper only if the action falls within the original subject matter jurisdiction of the federal court. See *Fax*

Telecomunicaciones Inc. v. AT & T, 138 F.3d 479, 485-86 (2d Cir. 1998).

Here, the court's original subject matter jurisdiction is invoked pursuant to 28 U.S.C. § 1331,¹ which provides federal jurisdiction over cases involving federal law. However, the notice of removal is otherwise completely incoherent, and is not accompanied by a complaint. Thus, the court cannot discern what the nature of the state action is, whether it actually implicates issues of federal law, or even whether it is a criminal or civil case.

Accordingly, as bald assertions of federal jurisdiction will not support removal, see, e.g., *Cashman v. Rosenberger*, No. 105CV0640GLSDRH,

¹The court has also considered whether jurisdiction exists under 28 U.S.C. § 1332. However, there is no indication of the citizenship of the parties or the amount in controversy in any of the submissions. As such, reliance on this jurisdictional provision would also fail.

2005 WL 1331127, at *1-2 (N.D.N.Y. June 1, 2005), the court remands this action *sua sponte* to the state court pursuant to 28 U.S.C. § 1447(c).

WHEREFORE, for the foregoing reasons, it is hereby

ORDERED that defendants' motion to proceed *in forma pauperis* (Dkt. No. 2) is **GRANTED**; and it is further

ORDERED that the petition for removal (Dkt. No. 1) is **DISMISSED**; and it is further

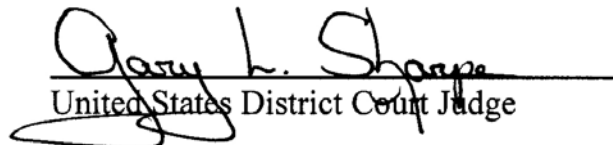
ORDERED that this matter be **REMANDED** to the state court in which the proceeding was commenced; and it is further

ORDERED that the Clerk of the Court serve a certified copy of this Order to the state court; and it is further

ORDERED that the Clerk of the Court provide a copy of this Order to the parties.

IT IS SO ORDERED.

Dated: July 15, 2009


United States District Court Judge